

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:) Chapter 7
)
GREGORY L TAYLOR,) Case No. 09 B 45372
)
Debtor.) Hon. Jack B. Schmetterer

NOTICE OF MOTION

TO: See Attached Service List

PLEASE TAKE NOTICE THAT on March 4, 2010, at 10:00 a.m., I shall appear before the Honorable Judge Jack B. Schmetterer, or any other judge sitting in his stead, in Room 682, 219 South Dearborn Street, Chicago, Illinois, and request a hearing on Debtor's Motion For Sanctions And To Recover Damages for Violations of the Automatic Stay by B & K Services of Illinois, Inc., a copy of which is attached hereto and hereby served upon you.

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, hereby state that pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System, I caused a copy of the foregoing NOTICE OF MOTION and MOTION to be served on all persons set forth on the attached Service List identified as Registrants through the Court's Electronic Notice for Registrants and, as to all other persons on the attached Service List by mailing a copy of same in an envelope properly addressed and with postage fully prepaid and by depositing same in the U.S. Mail, Chicago, Illinois on the 24th day of February 2010.

/s/ Gregory K. Stern

Gregory K. Stern

Gregory K. Stern, P.C.
Monica C. O'Brien (Atty. ID #6216626)
Gregory K. Stern (Atty. ID #6183380)
James E. Hausler (Atty. ID # 6292972)
Christina M. Riepel (Atty. ID #6297514)
53 West Jackson Boulevard
Suite 1442
Chicago, Illinois 60604
(312) 427-1558

SERVICE LIST

Registrants Served Through The Court's Electronic Notice For Registrants

William Neary, United States Trustee
219 South Dearborn Street,
Suite 873
Chicago, Illinois 60604

Andrew J. Maxwell, Esq.
Maxwell & Potts LLC
105 West Adams Street
Suite 3200
Chicago, Illinois 60603

Parties Served Via First Class Mail

Alisa M. Levin, Esq.
1741 North Western Avenue
Suite 2A
Chicago, Illinois 60647

B & K Services of Illinois
Gerard C Schrementi – Registered Agent
21501 Main Street
Matteson, Illinois 60443

B & K Services of Illinois
Attn: Bob Ricci
22466 Merrill Avenue
Sauk Village, Illinois 60411

Gregory L. Taylor
724 Peoria Street
Apt. 1
Chicago Heights, Illinois 60411

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:) Chapter 7
)
GREGORY L TAYLOR,) Case No. 09 B 45372
)
Debtor.) Hon. Jack B. Schmetterer

**MOTION FOR SANCTIONS AND TO RECOVER DAMAGES
FOR VIOLATIONS OF THE AUTOMATIC STAY
BY B & K SERVICES OF ILLINOIS, INC.**

NOW COMES Gregory L. Taylor, Debtor, by and through his attorneys Gregory K. Stern, Monica C. O'Brien, James E. Hausler, and Christina M. Riepel, and in support of his Motion For Sanctions And To Recover Damages for Violations of the Automatic Stay by B & K Services of Illinois, Inc., states as follows:

1. On November 30, 2009, the Debtor filed a Voluntary Petition for relief under Chapter 7 of the United States Bankruptcy Code and Andrew J. Maxwell was appointed as Chapter 7 Trustee.
2. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 157(b)(2)(A).
3. B & K Services of Illinois, Inc. ("B & K") was listed in Schedule F in the Debtor's Chapter 7 case.
4. On December 2, 2009, the United States Bankruptcy Court issued a Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines (the "Notice"), to be served on all creditors, including B & K at its business address and B & K's registered agent, Gerard C. Schrementi. A copy of the Notice and Certificate of Service is attached hereto as Exhibit A and made a part hereof.
5. The Notices sent to B & K at both its business address and to its registered agent were never returned as undeliverable.
6. The Debtor's Chapter 7 case has not been closed by the Clerk of the United States Bankruptcy Court, nor have the automatic stay provisions of 11 U.S.C. § 362 been modified by B & K.
7. Notwithstanding B & K's knowledge of the Debtor's Chapter 7 case, B & K continued its

garnishment of the Debtor's post-petition wages (the "Garnished Wages") related to the case more and commonly known as *B & K Services of Illinois v. Gregory Taylor*, case no. 09 M6 1356 (the "State Court Case") in the Circuit Court of Cook County, Markham, Illinois. A copy of the Debtor's pay advices with B & K's garnishment indicated is attached hereto as Exhibit B and made a part hereof.

8. On December 22, 2009, Debtor's counsel transmitted a letter to the Debtor's employer to stop the withholding of the garnishment for the benefit of B & K, and the withholding thereafter ceased.

9. On February 11, 2010, when the Garnished Wages were not returned by B & K voluntarily, Debtor's counsel transmitted correspondence to B & K's registered agent, Gerard C. Schrementi, seeking to remedy the automatic stay violation by advising him of the automatic stay violation and demanding the return of the Debtor's Garnished Wages.

10. On February 19, 2010, Debtor's counsel received correspondence from B & K's counsel, Alisa M. Levin, that advised of her representation of B & K, acknowledged B & K's notice of the Debtor's bankruptcy in January 2010, and refused to return the Garnished Wages without a court order requiring turnover. A copy of the correspondence is attached hereto as Exhibit C and made a part hereof.

11. On February 19, 2010, Debtor's counsel transmitted correspondence to B & K's counsel seeking to avoid litigation and to remedy the automatic stay violation, and made a final demand for the garnished wages being held by B & K in violation of 11 U.S.C § 362. A copy of the correspondence is attached hereto as Exhibit D and made a part hereof.

12. On February 22, 2010, Debtor's counsel received correspondence from B & K's counsel, which again acknowledged B & K's actual knowledge of the Debtor's bankruptcy case in January 2010 and again refused to turnover the Garnished Wages unless the Debtor provided a court order. A copy of the correspondence is attached hereto as Exhibit E and made a part hereof.

13. B & K's actions in continuing to garnish the Debtor's wages post-petition and failing to return those garnished wages once it had notice of the Debtor's case constitutes a willful violation of the automatic stay provisions of 11 U.S.C. § 362 for which the Debtor is entitled to recover actual damages including attorney's fees, and punitive damages, pursuant to 11 U.S.C. § 362(k)(1).

14. B & K has acted with contumacious disregard of the Automatic Stay by its continued failure to return the Garnished Wages and its insistence that the Debtor secure a court order and incur the attendant expenses before it will return the Garnished Wages.

15. The Debtor has incurred additional attorneys' fees and costs and suffered damages as a result of B & K's violation of the Automatic Stay.

WHEREFORE, the Debtor, Gregory L. Taylor, prays that this Court enter an order as follows:

A. Granting the Debtor's Motion For Sanctions And To Recover Damages for Violations of the Automatic Stay by B & K Services of Illinois, Inc.;

B. Assessing and entering judgment for actual damages of \$596.19 plus attorney fees of \$2,000.00, and punitive damages of \$5,000.00 against B & K Services of Illinois, Inc. and in favor of the Debtor and his attorneys; and \$1,000.00 per violation for any violation occurring hereafter; and,

C. For such other further relief as this Court deems just.

/s/ Gregory K. Stern

Gregory K. Stern,
Attorney for the Debtor

Gregory K. Stern (Atty. ID #6183380)
Monica C. O'Brien (Atty. ID #6216626)
James E. Hausler (Atty. ID #6292973)
Christina M. Riepel (Atty. ID #6297514)
53 West Jackson Boulevard, Suite 1442
Chicago, Illinois 60604
(312) 427-1558